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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.876 OF 2005
IN
SUIT NO.783 OF 2005

Ajit Devendra Shah)..Plaintiff

Versus

Kalpana Devendra Shah and another)..Defendants

Mr.Tushar Bhavsar i/b.Mr.Manoj Bhatt for the Plaintiff.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 14TH JUNE 2006

P.C.:

. The Plaintiff has filed the present Suit against Defendant No.1, his mother, Defendant No.2, his brother and Defendant No.3, the Co-operative Society in which the suit premises are situated. According to the Plaintiff, the suit premises consist of a flat in Defendant No.3 Society which was owned by his father. It was purchased by his father in the joint names of the Plaintiff's parents. After the death of the Plaintiff's father on 15th December 1988, Defendant No.1 has deleted the name of the Plaintiff's father from the Share Certificate and the membership of Defendant No.3 Society. The Plaintiff fears that the suit flat in

which he claims to have 1/3rd share will be sold by his mother in collusion with Defendant No.2. It is for this reason, that the present Notice of Motion has been filed.

2. There is no document on record to indicate that Devendra C. Shah did not die intestate. The Plaintiff would, in any event, therefore, be entitled to 1/3rd share in the suit flat. In these circumstances, injunction must follow.

3. The Defendants, though served, have not appeared before this Court. Affidavit of service has been filed indicating the service on the Defendants.

4. Notice of Motion made absolute in terms of prayer clause (a).